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TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule LSA Document #03-232

DIGEST

Adds 470 IAC 3-4.8 for the emergency or temporary closure of child care centers and child care homes and establishes a list of violations as required by IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7 that would impose an immediate threat to the life and well-being of a child in the care of a child care licensee and procedures that will be used to invoke an emergency or temporary closure of a child care center or child care home. Effective 30 days after filing with the secretary of state.

470 IAC 3-4.8

SECTION 1. 470 IAC 3-4.8 IS ADDED TO READ AS FOLLOWS:

Rule 4.8. Emergency or Temporary Closure of Child Care Centers and Child Care Homes

470 IAC 3-4.8-1 List of conditions

Authority: IC 12-13-5-3; IC 12-17.2-4-18.7; IC 12-17.2-5-18.7

Affected: IC 4-21.5-4; IC 12-17.2-4; IC 12-17.2-5

Sec. 1. (a) The following are the list of conditions that pose immediate threat to the life or well-being of a child in the care of a child care provider that may subject a child care center or child care home to emergency or temporary closure or order:

(1) Building damage due to:

- (A) earthquake;**
- (B) flooding or water damage;**
- (C) tornado;**
- (D) severe wind;**
- (E) ice storm;**
- (F) fire;**
- (G) lead contamination; or**
- (H) asbestos.**

(2) Sewage problems as follows:

- (A) Sewage backup.**
- (B) Toilets cannot be flushed or are overflowing.**
- (C) Sewage system is not operating properly.**

(3) Inadequate or unsafe water supply as follows:

- (A) Contaminated water supply.**
- (B) Water supply not functioning.**

(4) No electricity in the building.

(5) Heating system problems.

(6) Gas, carbon monoxide, or other noxious gases leak.

(7) Filthy conditions.

(8) Rodent, roach, or vermin infestation.

(9) Building renovation occurring in a room or area occupied by children.

(10) Lack of supervision, which leads to the death or serious injury of a child.

(b) If an employee or agent of the division determines that a violation in subsection (a) exists, the division shall:

- (1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operations of the child care center or home; and
- (2) contact the parent or guardian of each child enrolled in the child care center or child care home to inform the parent or guardian:
 - (A) that the division has issued an order to require the licensee to cease operations of the child care center or child care home; and
 - (B) the reason for the order to cease operation.

(Division of Family and Children; 470 IAC 3-4.8-1)

470 IAC 3-4.8-2 Administrative hearing

Authority: IC 12-13-5-3; IC 12-17.2-4-18.7; IC 12-17.2-5-18.7

Affected: IC 12-17.2-4-20; IC 12-17.2-5

Sec. 2. If the division issues an order to cease operation, an administrative hearing concerning the decision shall be held under IC 12-17.2-4-20. *(Division of Family and Children; 470 IAC 3-4.8-2)*

Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on February 26, 2004 at 6:00 p.m., at the South Bend Public Library, 304 South Main Street, South Bend, Indiana; **AND** on March 2, 2004 at 6:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana; **AND** on March 4, 2004 at 6:00 p.m., at the Corydon Presbyterian Church, Community Life Center, 568 Highway 62 West, Corydon, Indiana the Division of Family and Children will hold a public hearing on proposed new rules at 470 IAC 3-4.8 establishing the list of violations as required by IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7 that could call for the emergency or temporary closure of child care centers and child care homes. Written comments will be accepted through April 2, 2004, and may be directed to the DFC, Bureau of Child Development, Attention: Keith Carver, 402 West Washington Street, Room W386, MS 02, Indianapolis, Indiana. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W386 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Stephen E. DeMougin
Director
Division of Family and Children